IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.01.2007

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE N.PAUL VASANTHAKUMAR

WRIT APPEAL Nos.767, 1129 OF 2006
AND WRIT PETITION NO.20491 of 2004
and connected miscellaneous petitions.

Palaniammal .. Appellant in both the Writ Appeals and petitioner in the Writ Petition.

.vs.

1.The Collector, Coimbatore District.

2.The Revenue Divisional Officer
Tiruppur, Coimbatore District.

3.The Tahsildar,
Palladam Taluk, Coimbatore District.

4.The Village Administrative Officer
Mopperipalayam Village
Palladam Taluk, Coimbatore District.

5.The Sub-Registrar
Sub-Registrar Office
Annoor, Avanashi Taluk
Coimbatore District.

6.The Superintendent of Police
Coimbatore District.

7.Sivasamy
8.Rackiappan
9.Subbanna Gounder
10.Gurusamy
11.Sarasammal ..Respondents both the Writ Appeals and in the Writ Petition.

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Writ Appeals filed under Clause 15 of the Letters of Patent against the orders of this Court dated 25.07.2005 made in W.P.M.P.Nos.24667 and 24668 of 2005 in W.P.No.20491 of 2004 respectively .

WPMP.No.24667 of 2005 :

prayed that this court may be pleased to transfer all the FIR Nos.344/2000, 243/99, 254/2001, 308/2003 and 206/2003 on the file of the Judicial Magistrate, Avinashi to the Sessions Judge, Coimbatore pending disposal of the Writ Petition.

WPMP.No.24668 of 2005:

Prayed that this Court may be pleased to direct the fifth respondent to cancel the forgery documents of the Petitioner's property sitated in M.Pappampatti, Moperipalayam Village, Palladam T.K (1) S.No.713/15 (As per patta Survey No.715/A, extent of 81 cents landed property's documents forged by late by Velusamy and his son Sivasamy in the year of 1994 onwards (2) Survey No.394/3, 395/2B, 395/3B, 395/5A extent of 2.13 acres landed property's documents forged by Gurusamy son of Narayana Gounder in the year 1996 onwards (3) Survey No.702/2 extent of 87 1/2 cents landed property's documents forged by Rockiappa Gounder son of (late) Marappa Gounder in the year 2001 onwards (4) a tiled house property door No.8 (Old No.) Pillayarkoil Street, Pappampatti Moperipalayam Village, Palladam Taluk, it's will document forged by Subanna Gounder son of Ganapathy Gounder in the year 2001 onwards, pending disposal of the above writ petition.

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the fifth respondent to cancel all the documents of the petitioner's property situated in M.Pappampatti, Moperipalayam Village, Palladam T.K (1) S.No.713/15 (As per patta Survey No.715/A, extent of 81 cents landed property's documents forged by late by Velusamy and his son Sivasamy in the year of 1994 onwards (2) Survey No.394/3, 395/2B, 395/3B, 395/5A extent of 2.13 acres landed property's documents forged by Gurusamy son of Narayana Gounder in the year 1996 onwards (3) Survey No.702/2 extent of 87 1/2 cents landed property's documents forged by Rockiappa Gounder son of (late) Marappa Gounder in the year 2001 onwards (4) a tiled house property door No.8 (Old No.) Pillayarkoil Street, Pappampatti Moperipalayam Village, Palladam Taluk, it's will document forged by Subanna Gounder son of Ganapathy Gounder in the year 2001 onwards, consequently to register the above properties in favour of the petitioner's name.

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For appellant/ petitioner : Mrs. Palaniammal
Party-in-Person

For respondents 1 to 6 : Mr. K. Elango
Spl.Govt. Pleader

R.7, R.8, R.9 and R.11 appeared in person.
No appearance for R.10.

COMMON JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

The above writ appeals are directed against the orders of the learned single Judge dated 25.07.2005 made in W.P.M.P.Nos.24667 and 24668 of 2005 in W.P.No.20491 of 2004 respectively, in and by which the learned Judge, after finding that the grievance of the petitioner and the relief sought for cannot be gone into by this Court, exercising jurisdiction under Article 226 of the Constitution of India, dismissed those petitions.

2. Considering the fact that the appellant/writ petitioner is appearing in person, we heard her at length. We also heard learned Special Government Pleader for respondents 1 to 6.

3. Pursuant to our direction dated 05.01.2007, respondents 7, 8, 9 and 11 appeared before this Court. We also enquired and heard their grievance.

4. Inasmuch as the parties are not willing to engage counsel, we ourselves verified the relief prayed for in the main writ petition. The prayer in the writ petition reads as under.

> " to issue a writ of Mandamus or any other appropriate writ, order or direction, in the nature of a writ to direct the 5th respondent to cancel all the documents of the petitioner's property situated in M. Pappampatti, Moperipalayam Village, Palladam T.K. (1) S.No.713/15 (As per patta Survey No.715/A, extent of 81 cents landed property's documents forged by late by Velusamy and his son Sivasamy in the year 1994 onwards (2) Survey No.394/3, 395/2B, 395/3B, 395/5A extent of 2.13 acres landed property's documents forged by Gurusamy

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son of Narayana Gounder in the year 1996 onwards (3) Survey No.702/2 extent of 87 ½ cents landed property's documents forged by Rockiappa Gounder son of (Late) Marappa Gounder in the year 2001 onwards (4) A tiled house property door No.8 (Old No.) Pillayar Koil Street, Pappampatti, Moperipalayam Village, Palladam Taluk it's will document forged by Subbanna Gounder son of Ganapathy Gounder in the year 2001 onwards, consequently to register the above said properties in favour of the petitioner's name.

5. During the course of hearing the learned single Judge (F.M. Ibrahim Kalifulla,J.) by order dated 15.03.2005, passed the following order.

" The Registry is directed to gather a report from the Principal District Judge, Coimbatore as to the stages at which the proceedings referred to in this petition, pending on the file of the Judicial Magistrate, Avinashi as on this date in order to enable this Court to pass appropriate orders. The report shall be collected from the Principal District Judge, Coimbatore in four weeks time.

Post the writ petition on 12.04.2005. "

When the matter again came up for hearing on 25.07.2005, the learned single Judge (P.D. Dinakaran,J.) directed the learned Principal District Judge, Coimbatore, to give effect to and pass appropriate orders as ordered on 15.03.2005 and closed WPMP.No.24667 of 2004.

6. Pursuant to the said direction, the learned Principal District Judge, Coimbatore forwarded the reports dated 14.11.2005 and 16.11.2005 received from the District Munsif-cum-Judicial Magistrate, Avanashi in respect of First Information Report in Crime Nos.344/2000, 243/1999, 254.2001, 308/2003 and 206/2003, which were pending on the file of District Munsif-cum-Judicial Magistrate, Avanashi. The following details are available in the said reports.

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Sl.No.	Case No.	Station and Crime No.and Section of Law.	Stage of the Case
(1)	(2)	(3)	(4)
1	CC.99/05	Karumathampatty Police Station Cr.No.344/2000 U/s.468, 427, 434 IPC.	On 29.11.2005, the case stood posted and it was reported that A1 is died. A2 to A5 refused to receive the summons and hence NBW was issued against them and later it was recalled. Thereafter the complainant continuously absent from 19.1.2006. Notices were issued to the complainant. The case was posted on 12.12.2006. On 12.12.2006 also the complainant was absent. A2 present and A3 to A5 were absent. Petition U/s.317 Cr.P.C. Was filed and allowed for A3 and A4. NBW was issued to A5. Now the case is posted to 11.1.2007 for production of death certificate of A1 and for execution of the NBW against A.5.

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Sl.No.	Case No.	Station and Crime No.and Section of Law.	Stage of the Case
2	CC.322 of 2002	Karumathampatty Police Station Cr.No.243/99 U/s.326, 323 IPC.	On 22.11.2005, after clubbing the complaint given by defacto complainant, other two accused namely Nanjammal and Thulasimani added as A3 and A4 and summons were issued. As the summons were refused by A3 and A4. NBW were issued against A3 and A4. On 19.1.2006, after getting anticipatory bail, A4 surrendered. On 7.2.06, the death certificate for A3 was filed and charge against A3 abated. On 29.5.2006, copies were given to the accused. On 30.5.06, the accused denied the charge and the case was posted to 1.6.06. The defacto complainant was examined as PW1 in part. PW1 refused to complete the Chief examination. Later PW2 to PW5 were examined. Now the case is posted to 11.1.07 on the production of witnesses 2,5 and 6.
3	CMP.3243 of 2002	Karumathampatty Police Station Cr.No.254/01.	Even after several adjournments for enquiry u/s.202 Cr.P.C., the complainant has not produced any witnesses. Hence, as a last chance, the case is adjourned to 11.1.2007.

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Sl.No.	Case No.	Station and Crime No.and Section of Law.	Stage of the Case
4	STC.2177of 2003	Karumathampatty Police Station Cr.No.206/2003 U/s.341, 323, 506 (ii) IPC.	The trial commenced on 23.2.2006. Pws.1 to 7 have been examined and the prosecution side is closed on 5.12.2006. The accused was questioned U/s. 313(1)(b) Cr.P.C. Now the case stands posted to 2.1.2007 for examination of defence side witnesses.
5	CC.24 of 2004	Karumathampatty Police Station Cr.No.308/2003.	The District Munsif-cum-Judicial Magistrate, Avinashi in her earlier report has submitted that the case in Cr.No.308/2003 has been filed u/s.379 IPC for theft of a Moped. The complainant of that case is Sheik Ameen S/o.Kotabai and not related to the petitioner Palaniammal. The case taken on file as C.C.24/2004 has been disposed off on 24.2.2004.

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7. Today, we once again heard the appellant/writ petitioner in detail. We also heard respondents 7, 8, 9 and 11, who were present before us. In spite of our request and persuasion for engaging counsel, appellant/writ petitioner, who appeared in person is not willing to accept our request. She repeatedly represented that her complaint regarding forgery may be enquired and appropriate action may be taken against the person concerned. From the reports of the District Munsif-cum-Judicial Magistrate, Avanashi, it is clear that the complaints made by the appellant/writ petitioner are pending before the concerned Court. In such circumstances, the grievance expressed by the petitioner cannot be gone into by this Court. We are satisfied that ends of justice would be met by directing the learned District Munsif-cum-Judicial Magistrate, Avanashi to give priority to the above mentioned pending cases, viz., CC.99/2005, CC.322/2000, CMP.3243/2002 and STC.2177/2003, and dispose of the same one way or the other, after affording opportunity to all the parties concerned. The appellant/writ petitioner, is directed to cooperate for the early disposal of the above cases. After disposal of the above said matters, learned District Munsif-cum-Judicial Magistrate, Avanashi is directed to submit a report to this Court on or before 30.04.2007.

8. In view of the reasons stated above, the relief as claimed by the petitioner in the writ petition cannot be granted by this Court, however, our direction mentioned above would satisfy the petitioner. It is made clear that in the above mentioned proceedings, if the complaint regarding forgery is proved, it is open to the writ petitioner to take appropriate action against the persons concerned. With the above observation, the writ appeals and the writ petition are closed. No costs. Consequently, connected miscellaneous petitions are also closed.

Post all these matters on 04.06.2007, for reporting compliance.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

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2.The Revenue Divisional Officer
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4.The Village Administrative Officer
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5.The Sub-Registrar
Sub-Registrar Office
Annoor, Avanashi Taluk
Coimbatore District.

6.The Superintendent of Police
Coimbatore District.

7.Mrs.Palaniammal
W/O. Late Ramasamy Gounder
M.Pappampatti
Mopperipalayam Village,
Vagaryam Palayam Post,
Palladam Taluk,
Coimbatore District.

1 cc To The Government Pleader, SR.3985.

Writ Appeal Nos.767,1129/06
& Writ Petition No.20491/04

JSK(CO)
RVL 29.01.2007

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